

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

**GARRY F. McCARTHY, as
Superintendent of Police of the City of
Chicago,**

Plaintiff,

v.

BRODERICK J. SNELLING,

Defendant.

15 CH 3030

MEMORANDUM AND ORDER

Plaintiff Garry F. McCarthy, in his official capacity as Superintendent of Police of the City of Chicago, has filed a Complaint for Administrative Review. The parties have filed briefs in support of, and in opposition to, the Complaint.

I. Background

On April 29, 2014, the Police Board of the City of Chicago ("the Board") notified Police Officer Broderick J. Snelling ("Officer Snelling") that he was being charged with violating the Rules and Regulations ("Rules") of the Chicago Police Department ("the Department"). (R. 2-5). The charges asserted that Officer Snelling had violated Rules 2, 14 and 26 by: (1) failing to cooperate with an Internal Affairs investigation into his place of residence by failing to submit certain documents; (2) making false statements regarding his place of residence during interviews with the Internal Affairs Division; and (3) failing to notify the Department of his current addresses. (R. 3-4).

Following a hearing, the Board issued its Findings and Decision. (R. 6). The Board found that Officer Snelling presented convincing testimony that when he was requested to submit certain documents concerning his residency, he did attempt to obtain these documents but was unable to do so. (R. 7). The Board further found that Police Agent Martin confirmed that Officer Snelling informed her of his inability to obtain the documents. (R. 7-8). The Board concluded that Officer Snelling had not intentionally failed to cooperate. (R. 8).

The Board further found that the unrefuted testimony of Officer Snelling's next door neighbor, Darryl Boyd, showed that Officer Snelling did not falsely claim to reside at 6504 S. Claremont. (R. 8). Additionally, Officer Snelling's driver's license listed the 6504 S. Claremont address. (R. 8). The Board found that the testimony of Police Officer Michael Rodriguez was

insufficient evidence to prove that Officer Snelling made a false statement as to his residence. (R. 8).

Finally, the Board found Officer Snelling had convincingly testified that although he was tardy in submitting a change of address with the Department, he did submit a change of address from 6430 South Stony Island Avenue to 6504 South Claremont. (R. 9). The Board also found that the Department had failed to submit convincing evidence that Officer Snelling resided at 7218 South Morgan or 6430 South Stony Island Avenue warranting a requirement for Officer Snelling to submit a change of address. (R. 9-10).

Given the Board's factual findings, the Board concluded that the Department had failed to prove that Officer Snelling violated Rule 2, Rule 14 or Rule 26. (R. 8-12). The Board found Officer Snelling to be not guilty of the charges and restored him to his position as a police officer effective May 14, 2014. (R. 12).

II. Complaint for Administrative Review

Plaintiff is seeking reversal of the Board's decision finding Officer Snelling not guilty of the charges against him. Plaintiff contends that the Board's decision was against the manifest weight of the evidence.

"Rulings on questions of fact will be reversed only if they are against the manifest weight of the evidence." Wade v. City of N. Chicago Police Pension Bd., 226 Ill. 2d 485, 506 (2007). "Where the question of an agency's decision is one of fact, an administrative agency's findings and conclusions of fact are deemed to be *prima facie* true and correct." Harris v. Department of Children & Family Servs., 2015 IL App (1st) 133258, ¶58. "In examining an administrative agency's factual findings, a reviewing court does not weigh the evidence or substitute its judgment for that of the agency." Id. "A reviewing court is limited to ascertaining whether such findings of fact are against the manifest weight of the evidence." Id. An administrative agency's factual findings are against the manifest weight of the evidence only an opposite conclusion than that reached by the agency is clearly evident. Wade, 226 Ill. 2d at 506.

The Board's decision was expressly based on the Board's credibility determinations and weighing of the evidence. Plaintiff argues that those determinations were against the manifest weight of the evidence, but there is competent evidence in the Record supporting the Board's findings. Where the issue is one of conflicting testimony and credibility of witnesses, the administrative agency's decision should be sustained. Harris v. Department of Children & Family Servs., 2015 IL App (1st) 133258, ¶58.

The Board's decision was not against the manifest weight of the evidence. Therefore, the Board's decision must be affirmed.

III. Conclusion

The Board's Decision is affirmed. The status date of December 1, 2015 is stricken.

Enter: 11/19/15

Neil H. Cohen #2021
Judge Neil H. Cohen

